In the High Court of Punjab and Haryana, Chandigarh.

R.S.A. No.3444 of 2007

Date of Decision: 12.10.2007

Krishan Chander

…Appellant

Versus

Hardwari and Others

…Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. Deepender Ahlawat,Advocate
for the appellant.

RAJESH BINDAL, J.

The plaintiff is in appeal before this Court against the judgment & decree of the learned First Appellate Court, whereby the judgment & decree passed by the learned trial Court was partially set aside.

The appellant/plaintiff had filed suit for prohibitory injunction restraining the respondents/defendants form interfering into the plot owned by the appellant/plaintiff identified as BCD in the site plan attached with the plaint. Further prayer of the appellant/plaintiff was to allow him to construct wall at the place marked BC and to affix gate in that. The learned trial Court decreed the suit filed by the appellant/plaintiff in its entirety finding that the appellant/plaintiff had been able to prove the ownership of the plot in question. However, the learned First Appellate Court while concurring with the findings of the learned trial Court on the issue of ownership of the plot in question with the appellant/plaintiff, reversed the findings on the part of the relief granted by the learned trial Court and the appellant/plaintiff was restrained from opening any gate in the wall or in the area marked as BC

shown in the site plan. This is the area which falls in a blind street of about 16/17 feet in length and 7 feet wide, on the other side of which the house of the respondent/defendant is there. The appellant/plaintiff has good opening of his premises in quite wider street on the other side and further he has not been able to prove that it was a public passage. Before this Court also, learned counsel for the appellant/plaintiff submitted that though it is a small blind street but still the same being public street, he is entitled to open his gate on that side and the judgment & decree of the learned lower Appellate Court on that issue is erroneous. However, in support of his plea, learned counsel for the appellant/plaintiff has not been able to point out any material on record to show that the small blind street is a public street.

I do not find any merit in the contentions of learned counsel for the appellant/plaintiff. It is not a case where the appellant/plaintiff is not having any passage for ingress/outgress of his property from any other place. Rather it is a case where good length of his property falls in a street The fight between the parties regarding opening of a gate on this side seems to be of ego. It is in the interest of both the parties that the litigation between them comes to an end early.

No substantial question of law arises.

Accordingly, the appeal is dismissed in limine.

(Rajesh Bindal)
Judge

October 12, 2007
"DK"